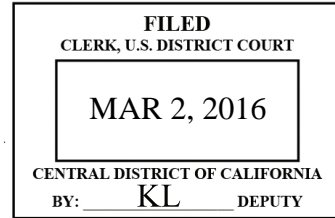


Travis Middleton
27 West Anapamu St. #153
Santa Barbara, California 93101
Telephone: 805-284-6562
Email: travis_m_93101@yahoo.com



**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

TRAVIS MIDDLETON, (misnomer)
Applicant,

vs:

Santa Barbara Police Department,
City of Santa Barbara,
Camerino Sanchez, individually and in
his official capacity,
Officer Freytag, individually,
Officer B. Jensen individually,
Officer Chung, individually,
Denise DeBellefueille, individually,
Lee Carter, individually,
John/Jane Doe court clerk, individually
and in his/her official capacity,

Defendants.

**APPLICATION / MOTION FOR
JUDGMENT ON THE PLEADINGS
OR IN THE ALTERNATIVE
SUMMARY JUDGMENT
PURSUANT TO
Fed. R. Civ. P. 12(c), 56(c) & UCC 1-
103.6**

This Application is filed under the
American Free Flag of peace of the
united states of America. No
jurisdiction under any American flags
of war will be accepted in this Case
Incorporation

Incorporated Case No. CV-15-09818
SVW(AGR)

Magistrate Judge: Hon. Alicia G.
Rosenberg
Ctrm: B – Eighth Floor

1 TO DEFENDANTS COUNSEL AND ALL PARTIES AT INTERST:

2 I, Travis Middleton, hereinafter Party Injured, being duly sworn according to
3 law, having first-hand knowledge of the facts herein, and being competent to
4 testify, do affirm that the facts herein are stated by the Party Injured, and are true,
5 correct and complete, stated under the penalties of perjury pursuant to the laws of
6 the United States of America.

7 **1).** I know all men by these presents, Travis Middleton, brings this Application for
8 relief pursuant to F.R.C.P. 12(c) and/or Rule 56(c), for the people of the united
9 States of America, under the American Flag of peace, without an attorney, ex rel.
10 and states:

11 **2).** Ex rel.: for the people of the united states; "...But it is the manner of
12 enforcement which gives Title 42 U.S.C. 1983 its unique importance, for the
13 enforcement is placed in the hands of the people." Each citizen, "acts as a private
14 attorney general who takes on the mantle of the sovereign, guarding for all of us
15 the individual liberties enunciated in the constitution." Section 1983 represents a
16 balancing feature in our government structure whereby individual citizens are
17 encouraged to police those who are charged with policing us all. Thus, it is of
18 special importance that suits brought under this statute be resolved by a
19 determination of truth." Wood v. Breir, 54 F.R.D. 7, (1972).

20 **3).** Definition: "Case Incorporated", the formation of a legal body, with the quality
21 of perpetual existence and succession. (2). Consisting of an association of
22 numerous individuals. (3). Matters relating to the common purpose of the
23 association, within the scope of the powers and authorities conferred upon such
24 bodies with the quality of perpetual existence and successions. Ref. Black's Law
25 Dictionary 67th, Pg. 690. "Case Incorporation" will establish the legal bounds of
26 the members of this lawful assembly to solve a specific "Case Number" and the
27 issues in motion.

28 Hereinafter: F.R.C.P. = Federal Rules of Civil Procedure.

U.S.C.A. = United States Code Annotated.

1 U.S.C.S. = United States Code Service.

2 F.R.D. = Federal Rules Decision.

3 **4).** The judge and attorney(s) has taken an Oath and Affirmation to support and
4 defend that Constitution of the United States of America and the Constitution of
5 the STATE OF CALIFORNIA.

6 **5).** All officers should take the oath required by the constitution, whether the law
7 under which they hold office prescribe this duty or not. The injunctions of the
8 Constitution in this respect are as obligatory as those of a statute could be.

9 The Attorneys and the named defendants caused the Injured Party herein damages
10 actionable for monetary relief, pursuant to 42 U.S.C.A. Sec. 1986 and 1983.

11 FACTS AND FINDINGS OF LAW

12 **6).** /////

13 **7).** /////

14 **8).** United States Constitution Article VI Section 2 provides: This Constitution, and
15 the laws of the United States which shall be made in pursuance thereof; and all
16 treaties made, or which shall be made, under the authority of the United States,
17 shall be the supreme law of the land; and the judges in every state shall be bound
18 thereby, anything in the Constitution or laws of any State to the contrary
19 notwithstanding.

20 The Senators and Representatives before mentioned, and the members of the
21 several state legislatures, and all executive and judicial officers, both of the United
22 States and of the several states, shall be bound by oath or affirmation, to support
23 this Constitution; but no religious test shall ever be required as a qualification to
24 any office or public trust under the United States.

25 **9).** United States Constitution, Article 1, Section 10, in pertinent part...No State
26 shall...pass any Law impairing the Obligation of Contracts.

27 **10).** 1st Amendment: Freedom of speech and press, and to petition for a redress of
28 grievances.

1 **11).** 5th Amendment: No citizen shall be deprived of life, liberty, or property
2 without due process of law.

3 **12).** 6th Amendment: Right to a speedy and public trial, by an impartial jury of the
4 state and district wherein the crime shall have been committed, and informed of the
5 nature and cause of the accusation.

6 **13).** 7th Amendment: In suits of common law, where the value in controversy shall
7 exceed twenty dollars, the right to trial by jury shall be preserved, and no fact tried
8 except by jury.

9 **14).** 9th Amendment: The enumeration in the Constitution, of certain rights, shall
10 not be construed to deny or disparage others retained by the people.

11 **15).** 14th Amendment: No state shall make or enforce any law which shall abridge
12 the privileges or immunities of citizens of the U.S., nor shall any state deprive any
13 citizen of life, liberty, or property without due process of the law; nor to any citizen
14 the equal protection of the law.

15 **16).** F.R.C.P. Rule 4. Process, (a) Summons, (b) Form, (c) Service, (d) Summons
16 and Complaint, (g) Return Proof, (h) Amendments, (j) Time.

17 **17).** F.R.C.P. Rule 5 Service, (a) Required (d) Filing certificate.

18 **18).** F.R.C.P. Rule 6 Time, (a) Computation (d) Motions and Affidavits.

19 **19).** F.R.C.P. Rule 7 Pleadings, (a) Pleadings (b) Motions.

20 **20).** F.R.C.P. Rule 8 Rules of Pleadings, (a) Claim for Relief (b) Defense form of
21 Denials (c) Affirmative Defense (d) Failure to deny (e) Pleading concise.

22 **21).** F.R.C.P. Rule 9 Pleading special (b) Fraud (e) Judgments (f) Time and place
23 (g) Special damage.

24 **22).** F.R.C.P. Rule 10 Form of Pleadings (a) Captions (b) Paragraphs.

25 **23).** F.R.C.P. Rule 11 Signing of Pleadings, Sanctions.

26 **24).** F.R.C.P. Rule 12 (a) Time of presented (b) How presented (c) Motion,
27 Judgment on Pleadings (f) Motion to Strike (h) Waiver (Subject Matter).

28 **25).** F.R.C.P. Rule 15 Amended and Supplemental Pleadings a.b.c.d.

1 F.R.C.P. Rule 16, (f) Sanctions (No contract, no fees).

2 F.R.C.P. Rule 18, and 19 Joinder.

3 F.R.C.P. Rule 24, Title 28, U.S.C. 2403 – Challenging Constitutionality.

4 F.R.C.P. Rule 38, Trial by Jury.

5 F.R.C.P. Rule 41, Dismissal of Action Voluntarily.

6 F.R.C.P. Rule 49, Issues sent to Jury by Demand.

7 F.R.C.P. Rule 50, New Trial.

8 F.R.C.P. Rule 54, Demand for Judgment.

9 F.R.C.P. Rule 55, Default.

10 F.R.C.P. Rule 56, Summary Judgment.

11
12 **26). Notice:** "Statements of counsel in brief or in argument are not sufficient for
13 motion to dismiss or for summary judgment,"; "Where there are no depositions
14 admissions, or affidavits the court has no facts to rely on for a summary
15 determination. See "Trinsey v. Pagliaro, D. C. Pa. 1964, 229 F. Supp. 647.

16 **27).** This applies both with Federal Rules of Evidence and State Rules of
17 Evidence.... there must be a competent first hand witness (a body). There has to be
18 a real person making the complaint and bringing evidence before the court.
19 Corporations are paper and can't testify. The opposing counsels' motions fall short
20 of this evidence rule.

21 **28).** "Manifestly, [such statements] cannot be properly considered by us in the
22 disposition of [a] case." United States v. Lovasco (06/09/77) 431 U.S. 783, 97 S.
23 Ct. 2044, 52 L. Ed. 2d 752,

24 **29).** "Under no possible view, however, of the findings we are considering can they
25 be held to constitute a compliance with the statute, since they merely embody
26 conflicting statements of counsel concerning the facts as they suppose them to be
27 and their appreciation of the law which they deem applicable, there being,
28 therefore, no attempt whatever to state the ultimate facts by a consideration of

1 which we would be able to conclude whether or not the judgment was warranted."

2 Gonzales v. Buist. (04/01/12) 224 U.S. 126, 56 L. Ed. 693, 32 S. Ct. 463.

3 **30).** Defendants have no immunity based upon Heck v Humphrey or Rooker-
4 Feldman Doctrines. See Exxon Mobile; *re Sun Valley Foods Co.* In *Exxon Mobil*,
5 the Court clarified that not all actions dealing with the "same or related question"
6 resolved in state court are barred in federal court. Instead, a district court must
7 retain a case that presents an "independent claim" even if, along the way, the
8 claimant challenges or denies some conclusion reached by the state court. See,
9 *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U. S. 280, 284 (2005).

10 "We hold that the Rooker-Feldman doctrine does not bar plaintiffs from
11 proceeding, and vacate the District Court's judgment".

12 **31).** The United States Court of Appeals for the Ninth Circuit has also developed a
13 recent body of case law creating a fraud exception to Rooker-Feldman. In
14 *Kougasian v. TMSL, Inc.*, the court held that the plaintiff's assertions of extrinsic
15 fraud in the procurement of the state-court judgment prevented Rooker-Feldman's
16 application.

17 **32).** *Kalina v. Fletcher* U.S. Supreme Court no. 96-792 (overruling Ninth Cir.)

18 12/10/1997 prosecutors are only entitled to qualified immunity.

19 *Figueroa v. Clark* 810,F. Supp. 613 (E.D. Pa. 11/5/1992 A prosecutorial
20 misconduct action in Federal court may lead to state court action, and eventually
21 release of prisoner.

22 **33).** *Beightol v. Kunowsky* D.C. Pa. 1974 382 F. Supp. 98 (the Court held)

23 "Absent highly unusual circumstances defenses of Executive Immunity and Good
24 Faith by public officials in carrying out duties should be submitted to jury"

25 **34). Notice:** Courts review a Fed. R. Civ. P. 12(c) motion for judgment on the
26 pleadings under the same standard used for analyzing a Fed. R. Civ. P. 12(b)(6)
27 motion to dismiss. *Fajardo v. County of Los Angeles*, 179 F.3d 698, 699 (9th Cir.
28 1999). "[J]udgment on the pleadings is proper when, taking all the allegations in

1 the non-moving party's pleadings as true, the moving party is entitled to judgment
 2 as a matter of law." *Ventress v. Japan Airlines*, 486 F.3d 1111, 1114 (9th Cir.
 3 2007).

4 **35). Notice:** The Fourteenth Amendment states:

5 No state shall make or enforce any law which shall abridge the privileges or
 6 immunities of citizens of the United States; nor shall any state deprive any person
 7 of life, liberty, or property, without due process of law; nor deny to any person
 8 within its jurisdiction the equal protection of the laws. U.S. Const. Amend. XIV.

9 The Fifth Amendment states:

10 No person shall be held to answer for a capital, or otherwise infamous
 11 crime.....nor be deprived of life, liberty, or property, without due process of
 12 law; nor shall private property be taken for public use, without just compensation.
 13 U.S. Const. Amend. V.

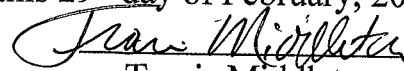
14 **36). Notice:** 42 U.S.C. Section 1983 provides:

15 Every person who, under color of any statute, ordinance, regulation, custom, or
 16 usage, of any State or Territory or the District of Columbia, subjects, or causes to
 17 be subjected, any citizen of the United States or other person within the jurisdiction
 18 thereof to the deprivation of any rights, privileges, or immunities secured by the
 19 Constitution and laws shall be liable to the party injured in an action at law, suit in
 20 equity, or other proper proceeding for redress.

21 **37).** These provisions and Amendments to the united States Constitution are self
 22 evident and the supreme law of the land and this court and all judges and attorneys
 23 are bound to follow its mandates.

24 **38). Notice:** Fed. R. Civ. P. 56(c) provides that a judgment should be rendered "if
 25 the pleadings, the discovery and disclosure materials on file, and any affidavits
 26 show that there is no genuine issue as to any material fact and that the movant is
 27 entitled to judgment as a matter of law." Party Injured herein contend that there are
 28 no material facts in dispute in this case involving either facts or law with respect to
 the united States Constitution and violations under 42 U.S.C. Section 1983, 1985
 & 1986, and that Applicant is entitled to judgment as a matter of law.

Dated this 29th day of February, 2016


 Travis Middleton

CERTIFICATE OF SERVICE

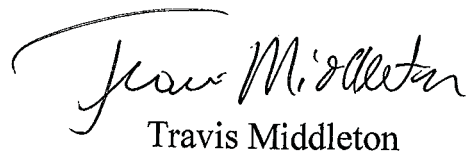
This is to certify that I have on this 29th day of February, 2016 placed a true and correct copy of the:

PLAINTIFF'S APPLICATION / MOTION FOR JUDGMENT ON THE PLEADINGS OR IN THE ALTERNATIVE SUMMARY JUDGMENT in incorporated case No. CV-15-09818 SVW(AGR) at the below address, or by depositing the same in the U.S. Mails, at 105 East Anapamu Street, Room 201 Santa Barbara, California 93101, addressed to the below attorney for all named Defendants: COUNTY COUNSEL, LISA A. ROHTHSTEIN, Attorney for Lee Carter,

AND;

Tom R. Shapiro, Assistant City Attorney, street address: 740 State street, Suite #201 Santa Barbara, California 93101; Mailing address: P.O. Box 1990 Santa Barbara, California 93102, Attorney for Defendants Santa Barbara Police Department, City of Santa Barbara, Camerino Sanchez, Officer Freytag, Officer B. Jensen, Officer Chung, AND; To: Marine Pogosyan, Clerk to Magistrate Judge Alicia G. Rosenberg, United States District Court Central District of California 312 North Spring Street Los Angeles, California 90012. Certified Mail No.: 70150640000009104672.

I declare under penalty of perjury that the above is true and correct.



Travis Middleton

27 West Anapamu St. #153
Santa Barbara, California 93101

State of California)

County of Santa Barbara)**CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT**

On February 29th 2016 before me, Marina Read,
(here insert name and title of the officer)
 personally appeared Travis Middleton

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

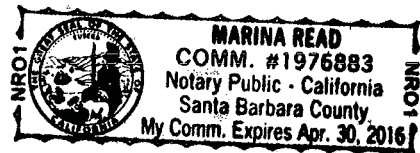
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Marina Read

(Seal)

**OPTIONAL INFORMATION**

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Application/Motion For Judgement On The Pleadings, containing 9 pages, and dated 2/29/2016.

The signer(s) capacity or authority is/are as:

- ☒ Individual(s)
☐ Attorney-in-Fact
☐ Corporate Officer(s) Travis Middleton, Applicant
Title(s)

- ☐ Guardian/Conservator
☐ Partner - Limited/General
☐ Trustee(s)
☐ Other: _____

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information**Method of Signer Identification**

Proved to me on the basis of satisfactory evidence:
☐ form(s) of identification ☐ credible witness(es)

Notarial event is detailed in notary journal on:

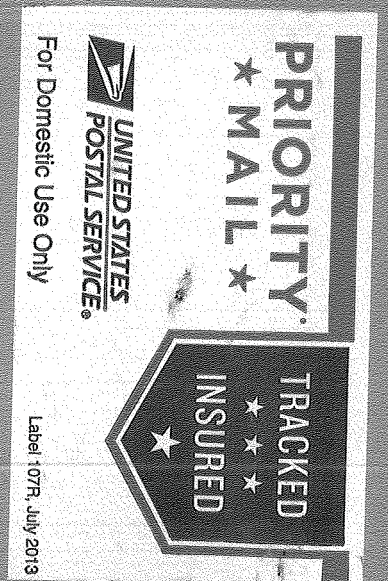
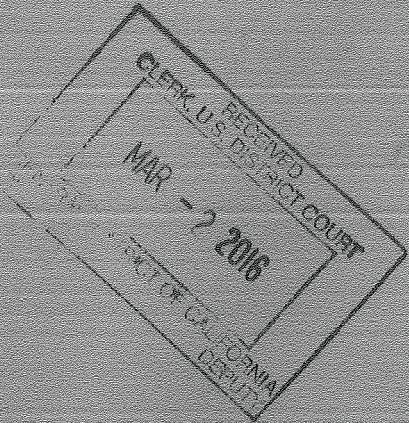
Page # _____ Entry # _____

Notary contact: _____

Other

- ☐ Additional Signer(s) ☐ Signer(s) Thumbprint(s)
☐ _____

110015 Middleston
1627 West Anapamu Street #153
Santa Barbara, California 93101



Marina Pogoryan, Clerk to:
Magistrate Judge Alicia Rosenberg
United States District Court
Central District of California, Western Region
312 North Spring Street
Los Angeles, California 90012